

rule on the motion to quash, duly recognizing any answer thereto filed. The motion, answer, and any ruling thereon will become part of the official record.

(d) *Appeal from interlocutory order.* An appeal may be taken to the Commission by the interested parties from the denial of a motion to quash or from the refusal to issue a subpoena for the production of documentary evidence.

(e) *Order of court upon failure to comply.* Upon the failure or refusal of any person to comply with a subpoena, the Commission may invoke the aid of the United States District Court within the jurisdiction of which the hearing, examination or investigation is being conducted, or wherein that person resides or transacts business, as provided in 22 U.S.C. 1623(c).

### § 501.3 Service of process.

(a) *By whom served.* The Commission will serve all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve.

(b) *Kinds of service.* Subpoenas, orders, rulings, and other processes of the Commission may be served by delivering in person, by registered or certified mail, by overnight express delivery service, by first class mail, by telegraph, or by publication.

(c) *Personal service.* Service by delivering in person may be accomplished by:

(1) Delivering a copy of the document to the person to be served, to a member of the partnership to be served, to an executive officer or a director of the corporation to be served, or to a person competent to accept service; or

(2) By leaving a copy thereof at the residence, principal office or place of business of the person, partnership, or corporation.

(3) Proof of service. The return receipt for the order, other process or supporting papers, or the verification by the person serving, setting forth the manner of service, will be proof of the service of the document.

(4) Service upon attorney or agent. When any party has appeared by an authorized attorney or agent, service upon the party's attorney or agent will be deemed service upon the party.

(d) *Service by registered mail or certified mail.* Service by registered mail or certified mail will be regarded as complete on the date the return post office receipt for the orders, notices and other papers is received by the Commission.

(e) *Service by overnight express delivery service or by first class mail.* Service by overnight express delivery service or first class mail will be regarded as complete upon deposit, respectively, in the delivery service's package receptacle or in the United States mail properly stamped and addressed.

(f) *Service by telegraph.* Service by telegraph will be regarded as complete when deposited with a telegraph company properly addressed and with charges prepaid.

(g) *Service by publication.* Service by publication is completed when due notice has been given in the publication for the time and in the manner provided by law or rule.

(h) *Date of service.* The date of service is the day upon which the document is deposited in the United States mail or delivered in person, as the case may be.

(i) *Filing with Commission.* Papers required to be filed with the Commission will be deemed filed upon actual receipt by the Commission accompanied by proof of service upon parties required to be served. Upon the actual receipt, the filing will be deemed complete as of the date of deposit in the mail or with the telegraph company as provided in paragraphs (e) and (f) of this section.

### § 501.4 Witnesses.

(a) *Examination of witnesses.* Witnesses must appear in person and be examined orally under oath, except that for good cause shown, testimony may be taken by deposition.

(b) *Witness fees and mileage.* Witnesses summoned by the Commission on its own behalf or on behalf of a claimant or interested party will be paid the same fees and mileage that are allowed and paid witnesses in the District Courts of the United States. Witness fees and mileage will be paid by the Commission or by the party at whose request the witness appears.

(c) *Transcript of testimony.* Every person required to attend and testify will be entitled, upon payment of prescribed

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costs, to receive a copy of the recording of the testimony or a transcript of the recording. Every person required to submit documents or other evidence will be entitled to retain a copy thereof.

### § 501.5 Depositions.

(a) *Application to take.* (1) An application to take a deposition must be in writing setting forth the reason why the deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken. If the deposition is being offered in connection with a hearing or examination, the application for deposition must be made to the Commission at least 15 days prior to the proposed date of such hearing or examination.

(2) Application to take a deposition may be made during a hearing or examination, or subsequent to a hearing or examination, only where it is shown for good cause that the facts as set forth in the application to take the deposition were not within the knowledge of the person signing the application prior to the time of the hearing or examination.

(3) The Commission or its representative will, upon receipt of the application and a showing of good cause, make and cause to be served upon the parties an order which will specify the name of the witness whose deposition is to be taken, the time, the place, and where practicable the designation of the officer before whom the witness is to testify. The officer may or may not be the one specified in the application. The order will be served upon all parties at least 10 days prior to the date of the taking of the deposition.

(b) *Who may take.* The deposition may be taken before the designated officer or, if none is designated, before any officer authorized to administer oaths by the laws of the United States. If the examination is held in a foreign country, it may be taken before a secretary of an embassy or legation, consul-general, consul, vice consul, or consular agent of the United States.

(c) *Examination and certification of testimony.* At the time and place specified in the Commission's order, the officer taking the deposition will permit the witness to be examined and cross-examined under oath by all parties appearing, and the testimony will be reduced to writing by, or under the direction of, the presiding officer. All objections to questions or evidence will be deemed waived unless made in accordance with paragraph (d) of this section. The officer will not have power to rule upon any objections but will note them upon the deposition. The testimony must be subscribed by the witness in the presence of the officer who will attach a certificate stating that the witness was duly sworn, that the deposition is a true record of the testimony and exhibits given by the witness and that the officer is not counsel or attorney to any of the interested parties. The officer will immediately seal and deliver an original and two copies of the transcript, together with the officer's certificate, by registered mail to the Foreign Claims Settlement Commission, Washington, DC 20579 or, if applicable, to the designated Commission field office.

(d) *Admissibility in evidence.* The deposition will be admissible in evidence, subject to such objections to the questions and answers as were noted at the time of taking the deposition, or within ten (10) days after the return thereof, and would be valid were the witness personally present at the hearing.

(e) *Errors and irregularities.* All errors or irregularities occurring will be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after the defect is, or with due diligence might have been, ascertained.

(f) *Scope of use.* The deposition of a witness, if relevant, may be used if the Commission finds:

(1) That the witness has died since the deposition was taken; or

(2) That the witness is at a distance greater than 100 miles radius of Washington, DC, the designated field office or the designated place of the hearing; or